

REMARKS

Reconsideration of this application is respectfully requested. Applicants reserve the right to reincorporate any cancelled, withdrawn or otherwise presently unclaimed subject matter in this application as appropriate during prosecution of this or subsequently filed applications. Consideration and entry of this amendment is respectfully requested.

Restriction Requirement

The Examiner has listed three groups of claims, Groups I-III, and requires Applicants to elect a single group for continued prosecution. If Group II is elected, the election of a species is also required. The groups are summarized below:

- **Group I** includes claims 1-25 and 38 and, according to the Examiner, is drawn to a sequestering subunit, classified in class 427, subclass 1+;
- **Group II** includes claims 26-29 and, according to the Examiner, is drawn to a composition, classified in class 424, subclass 423+; and,
- **Group III** includes claim 37 and, according to the Examiner, is drawn to a method of preventing abuse, classified in class 424, subclass 423+.

As Applicants are required to elect a group for prosecution in this application, Group I is hereby selected with traverse. The Examiner states on 4 of the Office Action that "there would be serious burden on the examiner if restriction is not required because the inventions require a different field of search". Applicants respectfully disagree that the burden would be "serious" and therefore traverse the requirement for restriction between Groups I and II.

The Examiner classified Group I in class 427 (Coating Processes), subclass 1+ (Body Member Printing (e.g., Fingerprinting, Etc.) and Group II in class 424 (Drug, Bio-Affecting and Body Treating Compositions), subclass 423+ (Surgical implant or material). These classifications do not seem proper. Applicants would appreciate clarification as to the Examiner's basis for these classifications. The claims of Group I are not related to "body member printing", and the inventions encompassed by the claims of Group II are not "surgical implants". Claims 1-25 relate to a subunit of a pharmaceutical composition for sequestering an agent within the composition. Claim 26,

which depends upon claims 1-15, 17, 18, 20 or 24-25 and upon which claims 27-29 depend, relates to a composition comprising a sequestering subunit and a therapeutic agent, and defines the mechanical fragility of each part of the composition relative to one another. Claim 26 and its dependents further characterize the subject matter of the preceding claims. Applicants believe that the Examiner would be searching essentially the same art in examining the claims of Group I and Group II. Applicants respectfully disagree that a "serious" burden would be placed upon the Examiner by searching and examining the claims of Group I and II simultaneously. As such, Applicants respectfully request that the claims of Group I and II be examined as a single group.

With the election of Group II, the Examiner also requires election of a species (tablets or capsules). If the Examiner combines Group I and Group II for prosecution on the merits, Applicants will have thereby elected the claims of Group II. In anticipation of the Examiner's decision, Applicants hereby select tablets with traverse with respect to Group II. The claims relate to a pharmaceutical composition comprising a sequestering subunit and a therapeutic agent in releasable form. Simultaneous examination of the claims with respect to both tablets and capsules would not cause the Examiner a "serious" burden. As such, Applicants believe this species requirement is improper and respectfully request its withdrawal. All of the claims in Group II (claims 26-29) read upon the subject matter of this election. Applicants reserve the right to prosecute additional claims encompassing other species upon allowance of a generic claim.

CONCLUSIONS

Applicants believe the claims are in condition for allowance and respectfully request that a Notice of Allowance be issued as soon as possible. The Examiner is encouraged to contact the undersigned with any comments and / or questions.

Respectfully submitted,

Date: April 23, 2007



Patrick J. Halloran

Reg. No. 41,053

Patrick J. Halloran, Ph.D., J.D.
3141 Muirfield Road
Center Valley, PA 18034
Tel: 610-984-4751
Fax: 484-214-0164
e-mail: pat@pathalloran.com